

Honorable Robert S. Lasnik

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,
Plaintiff

NO. CR19-159RSL

~~PROPOSED~~ PROTECTIVE ORDER

v.

PAIGE A. THOMPSON,
Defendant.

This matter, having come before the Court on a Stipulated Motion for Entry of a Protective Order, the Court hereby enters the following order:

PROTECTIVE ORDER

1. Pursuant to Federal Rule of Criminal Procedure 16(d)(1), this Protective Order governs all discovery material in any format (written or electronic) that is produced by the United States in discovery in the above captioned case.

2. The "Defense Team" shall be limited to attorneys of record for the defendant and any of the following people working on this matter under the supervision of the attorneys of record: attorneys, investigators, paralegals, law clerks, testifying and consulting computer forensic experts, legal assistants, and administrative staff and contractors. For

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1 | purposes of this Order, the “Defense Team” does not include Defendant. Defendant’s
2 | attorneys shall inform any member of the Defense Team to whom disclosure of discovery
3 | material is made of the existence and terms of this Protective Order. Members of the
4 | Defense Team shall not provide copies of any discovery material to any persons outside of
5 | the Defense Team other than the Defendant.

6 | 3. Any discovery material produced by the government shall only be used for the
7 | purpose of investigating and preparing a defense to the charges in this action, and not for any
8 | literary, commercial, or other purpose. Members of the Defense Team may review discovery
9 | material with witnesses for purposes of hearing or trial preparation. The Defense Team is
10 | aware that some of the discovery material may contain malware and other pernicious files.

11 | 4. The discovery in this case is voluminous, and includes materials and
12 | documents that may contain (1) personally identifiable information (PII); (2) “electronic
13 | contraband”; (3) “victim material”; and (4) “law enforcement sensitive” materials related to
14 | ongoing investigations.

15 | a. PII includes, but is not limited to, information such as such as
16 | payment card numbers, cell phone IMEI numbers, Social Security numbers, driver’s license
17 | numbers, dates of birth, addresses, email addresses, mothers’ maiden names, passwords,
18 | financial lines of credit numbers, bank account numbers, and personal identification
19 | numbers.

20 | b. “Electronic contraband” shall mean malware and surveillance
21 | files generated by the malware, account numbers and passwords, vulnerabilities, internal
22 | network information, and non-public IP addresses of servers which contain, or which there is
23 | a reasonable basis to believe contain, any of the information, files or data described above.

24 | c. “Victim material” shall mean information, files or data believed
25 | to be the property of third parties and/or suspected victims of criminal or unauthorized
26 | conduct or otherwise possessed by Defendant without authorization;

27 | d. “Law enforcement sensitive” materials include communications,
28 | reports, and other materials that relate to ongoing investigations or ongoing matters

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1 occurring before the grand jury, in addition to statements given by any cooperating
2 witnesses, and documents evincing any agreement to cooperate by any such witnesses.

3 5. Redacting the discovery to delete the above material would be technically
4 difficult and extremely time-consuming and would substantially delay the disclosure of
5 discovery to the defendant.

6 6. Discovery material designated by the government as “Protected Material” may
7 only be possessed by the Defense Team. The “Protected Material” designation shall only be
8 used to limit the distribution of discovery containing PII, electronic contraband, victim
9 material, or law enforcement sensitive material. The Defense Team may not provide copies
10 of Protected Material to any other person, including Defendant. This order, however, does
11 not prohibit the Defense Team from discussing or reviewing Protected Material with
12 Defendant or prospective witnesses.

13 7. The Defense may include and discuss discovery in any filing and at any
14 hearing in this action, as well as during trial. All “Protected Material” that is filed with the
15 Court in connection with any pre-trial, trial, sentencing, or other proceedings, shall be filed
16 under seal and shall remain sealed until otherwise ordered by this Court, unless otherwise
17 agreed upon by the parties. The parties are required to comply in all respects with the
18 relevant local and federal rules of criminal procedure pertaining to the sealing of court
19 documents.

20 8. The government shall designate material as “Protected Material” by stamping
21 or otherwise designating the material as “Protected Material”, or by providing the Defense
22 Team with written identification of discovery materials that constitute “Protected Material.”
23 When possible, this written identification shall include the Bates number or file name for any
24 material being designated as “Protected Material.”

25 9. If the Defense Team disagrees with the designation of any material as
26 “Protected Material,” it shall notify the government in writing of the disagreement, identify
27 with particularity each document and file at issue, and state the basis for the challenge.
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1 10. The Defense Team, at any time after attempting to resolve the matter by
2 agreement with the government, may apply by motion to the Court for a ruling that
3 information designated as "Protected Material" is not entitled to protected treatment under
4 this Order. Any such motion must identify with particularity each document and file at
5 issue, and state the basis for the challenge.

6 11. This Protective Order shall remain in effect upon conclusion of this action, and
7 any habeas proceeding filed within a year of the conclusion of this action, and any appeal
8 from either. The Defense Team may thereafter return to the government or destroy, and
9 certify the destruction of, all discovery material. In the event that the Defense Team believes
10 that it needs to maintain the discovery for a longer period, this Protective Order shall remain
11 in effect until the Defense Team returns, or destroys and certifies the destruction of, the
12 discovery. The Defense Team may provide discovery to any attorney representing
13 Defendant in a timely habeas action, provided that that attorney first enters into a Protective
14 Order substantially-identical to this Protective Order.

15 12. This Protective Order may be modified, as necessary, by filing with the Court a
16 Stipulated Order Modifying the Protective Order, or by order of the Court.

17 13. Nothing in this Order should be construed as imposing any discovery
18 obligations on the government or the Defendants that are different from those imposed by
19 case law and Rule 16 of the Federal Rules of Criminal Procedure, and the Local Criminal
20 Rules.

21 14. In the event that the government believes that certain material should be made
22 available for inspection, but should not be actually copied and produced even to the Defense
23 Team (for example, because it contains particularly large volumes of PII or otherwise
24 sensitive information), the government reserves the right to request that the Defense Team

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1 agree to such an arrangement, and, if the Defense Team does not agree, to raise the issue
2 with the Court.

3 DATED this 30th day of October, 2019.

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7 ROBERT S. LASNIK
8 United States District Judge
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10 Presented by:

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13 ANDREW S. FRIEDMAN
14 STEVEN T. MASADA
15 Assistant United States Attorneys
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